

Remarks

Applicant thanks the Examiner for generously taking the time to speak with Applicant's representative on March 31, 2008. Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-3 are pending in the application, with claims 1-3 being the independent claims. Claims 1-3 are currently amended. For instance, claims 1-3 have been amended to overcome the rejections under 35 U.S.C. §§101 and 112 made by the Examiner as described below. Claims 1-3 have further been amended to recite certain claim elements in clear, definite language without use of means-plus-function type claim language under 35 U.S.C. §112(6). These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Objection to the Specification

Paragraph [0001] of the specification has been amended to recite that U.S. Application No. 09/429,652 was "incorporated by reference," adding the root word "reference" to comply with 37 C.F.R. 1.57(b)(1). U.S. Application No. 09/429,652, which the present application is a continuation of, was incorporated by reference or clearly intended to be incorporated by reference in the originally filed application. 37 C.F.R. 1.57(g)(1). For example, the present application stated, in the first sentence of the

Reply to Office Action of January 9, 2008

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Appl. No. 10/696,998

specification upon filing, that U.S. Application No. 09/429,652 was "hereby incorporated herein in its entirety." This paragraph was also amended to update the status of the referenced application. This amendment contains no new subject matter. Applicant respectfully requests that the objection to the specification be withdrawn.

Rejections under 35 U.S.C. § 101

Claims 1-3 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses the rejection. However, to expedite prosecution, paragraph [0067] of the specification has been amended to remove subject matter pertaining to "a carrier wave or other signal carrying software" and "media that transmits a carrier wave." As a result, the specification and claims 1-3 are directed only to statutory subject matter. Reconsideration and withdrawal of the rejections for claims 1-3 under 35 U.S.C. § 101 is respectfully requested.

Rejections under 35 U.S.C. § 112

Claims 1-3 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant respectfully traverses the rejection. However, to expedite prosecution, claims 1-3 have been amended to remove the word "tangible." Reconsideration and withdrawal of the rejections for claims 1-3 under 35 U.S.C. § 112 is respectfully requested.

Double Patenting

Claims 1-3 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 6, 7 and 14 (respectively) of U.S. Patent No. 6,665,317 in view of Kramer et al. (US 6,658,027). (See Office Action at p. 4.)

Applicant has filed herewith a Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Art with respect to U.S. Patent No. 6,665,317, thereby rendering these rejections moot. Accordingly, Applicant respectfully requests that the Examiner reconsider and remove his rejections of claims 1-3 on the ground of nonstatutory obviousness-type double patenting with respect to U.S. Patent No. 6,665,317.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

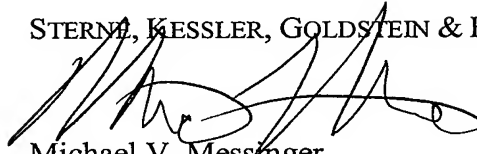
Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Reply to Office Action of January 9, 2008

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Appl. No. 10/696,998

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read 'Michael V. Messinger', written over the firm name.

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